

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Implement  
AB117 Concerning Community Choice  
Aggregation.

Rulemaking 03-10-003  
(Filed October 2, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING  
APPROVING THE NOTICE OF INTENT TO CLAIM INTERVENOR  
COMPENSATION BY THE COMMUNITY ENVIRONMENTAL COUNCIL**

Pursuant to Public Utilities Code Section 1804(a), the Community Environmental Council (CEC) filed on March 2, 2005, a Notice of Intent to Claim Intervenor Compensation (NOI) and a determination of its eligibility for compensation in connection with its work in this proceeding.

**Timeliness of Filing**

Under Section 1804(a)(1), "[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation." The California Public Utilities Commission (Commission) is within its authority to excuse a party from this requirement in certain circumstances.

CEC states its NOI is late because its energy program was initiated in September of 2004, almost a year after the initiation of this proceeding.

Although CEC's NOI was not filed within 30 days of the prehearing conference in this proceeding, the Commission accepts the NOI because the CEC's work in related areas is more recent and because the Commission wishes

to encourage the participation of ongoing proceedings. Accordingly, the Commission request that this NOI be accepted despite its lack of exact timeliness.

### **Status of Customer**

Article 5 of the Public Utilities Code requires the Commission to compensate any “customer” who fulfills certain criteria for participating in Commission proceedings. Section 1802(b) defines “customer” in three ways: Category 1 applies to a participant representing consumers; Category 2 applies to a representative authorized by a customer; and Category 3 applies to a representative of a group or organization that is authorized by its articles or bylaws to represent the interests of residential or small commercial customers.

The CEC explains that it is a regional customer-oriented non-profit organization, based in Santa Barbara with over 2,000 members. Its members are generally Southern California Edison customers who have an interest in matters that may affect their utility bills and the type of energy they receive. The CEC states it has served the people of Santa Barbara for over 34 years, and is the leading local non-profit environmental organization.

The CEC explains that since last year, the CEC’s focus has shifted to energy issues and it has initiated a regional effort to reduce reliance of local communities on fossil fuels over the next generation.

The CEC is a Category 3 customer because it is a membership organization specifically focused on representing members with concerns about environmental protection and sustainability, and how those concerns affect or are affected by electricity rates, services and public policies.

The CEC states it is likely to be the only intervenor representing solely the interests of residential and small commercial customers in the Central Coast region of California and one of only two non-profit organizations actively representing consumer interests in this proceeding. The CEC states it will

coordinate its efforts with other parties to ensure that its work complements the work of other parties that share our positions, and avoid any undue duplication wherever practical.

### **Estimated Costs of Participation**

Section 1804(a)(2) requires the NOI to provide a statement of the nature and extent of the customer's planned participation in the proceeding. The CEC states it plans to be actively involved in many elements of this proceeding, including attendance at Phase 2 workshops, and submitting testimony and briefs. The CEC states the extent of its involvement will depend on resources available to it.

Section 1804(a)(2) also requires an NOI to include an itemized estimate of the compensation the customer expects to request. The CEC states that since it is new to Commission proceedings, it cannot accurately predict the number of total hours it will devote to this proceeding. It nevertheless estimates it will devote roughly 210 hours of Energy Program Director (and attorney) Tam Hunt's time at a proposed hourly rate of \$220. It states it may also hire a lawyer in San Francisco to assist in filings and appearances, at a proposed hourly rate of \$220 for approximately 80 hours. The CEC also anticipates four trips to San Francisco from Santa Barbara (at about \$500 per trip, with lodging). It estimates a total budget of approximately \$65,800.

The CEC states its request for compensation will depend upon the Commission's final decision in this case and that it plans to provide justification for its hourly rates in its request for compensation.

### **Significant Financial Hardship**

Section 1804 (a)(2)(B) provides an option for the party to seek a finding that its participation would leave to significant financial hardship. CEC states it is eligible for intervenor compensation because intervention in this proceeding will

cause it significant financial hardship. Section 1802(g) defines “significant financial hardship” as follows:

- 1) the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation or
- 2) in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in this proceeding.

The CEC states it has a very small budget relative to the cost of participation in this proceeding, especially if it must pay consultants and outside attorneys. It also states the economic interests of its individual members in this proceeding – and in particular those who might actively support participation in this proceeding – are very small relative to the cost of participations.

This ruling finds that the CEC would suffer significant financial hardship by participating in this proceeding.

**IT IS RULED** that:

1. The Community Environmental Council (CEC) has fulfilled the requirements of Section 1804(a) with regard to its notice of intent to claim compensation.
2. The CEC would suffer significant financial hardship participating in this proceeding because it has a small operating budget and because the economic interests of its interested members are small relative to the costs of participation.

Dated March 22, 2005, at San Francisco, California.

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/s/ KIM MALCOLM  
Kim Malcolm  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Approving the Notice of Intent to Claim Intervenor Compensation by the Community Environmental Council on all parties of record in this proceeding or their attorneys of record.

Dated March 22, 2005, at San Francisco, California.

/s/ ERLINDA PULMANO  
Erlinda Pulmano

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.